

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

STEPHANIE WHEELER

Plaintiff,

versus

DOLLAR TREE STORES, INC.

Defendant.

)
) **Civil Action**
) **File No.**
)
) **Judge:**
) **Magistrate Judge:**
)
)

NOTICE OF REMOVAL

NOW INTO COURT, through undersigned counsel, comes Defendant, Dollar Tree Stores, Inc. (hereinafter "Dollar Tree" or "Defendant"), fully reserving the right to raise all defenses and objections to which it may be entitled, and pursuant to 28 U.S.C. §§ 1331, 1332 and 1441, hereby removes Case No. 2017-1602 D, *Stephanie Wheeler v. Dollar Tree Stores, Inc.*, pending in the 15th Judicial District Court, Parish of Lafayette, State of Louisiana, to the United States District Court for the Western District of Louisiana, Lafayette Division. In accordance with 28 U.S.C. § 1446(a), Defendant makes the following statements regarding the grounds for removal:

1.

On March 21, 2017, Plaintiff filed suit against Defendant in the 15th Judicial District Court for the Parish of Lafayette, State of Louisiana, in an action captioned, *Stephanie Wheeler v. Dollar Stores Tree, Inc.*, bearing the Docket No. 2017-1602 D. Defendant was served with the Citation and First Amending and Supplemental Petition and the Petition for Damages on June 20, 2017. Defendant was not served with the Citation and Petition for Damages prior to being served with the Citation and First Amending and Supplemental Petition. Pursuant to 28 U.S.C. §

1446(b), this Notice of Removal is timely filed within thirty (30) days after receipt of the First Amending Petition for Damages by Defendant through service.

2.

Removal to this Court is proper under 28 U.S.C. § 1446(a) because the Western District of Louisiana is the district and division within which the 15th Judicial District, Lafayette Parish, is located.

3.

This Notice of Removal is executed pursuant to Rule 11 of the Federal Rules of Civil Procedure.

4.

Pursuant to 28 U.S.C. § 1446(a), “a copy of all process, pleadings, and orders served upon such defendant” is attached *in globo* as Exhibit “A.”

DIVERSITY

5.

This removal is based upon diversity jurisdiction, pursuant to 28 U.S.C. § 1332. Complete diversity of citizenship exists between the parties in this case, and the amount in controversy is in excess of \$75,000.00:

Diversity of Citizenship Jurisdiction Exists as the Parties in this Matter are Citizens of Different States.

6.

In her Petition for Damages, Plaintiff alleges that she “presently resides and is domiciled in Lafayette Parish, Louisiana.” See Plaintiff’s Petition for Damages at ¶ 1. Defendant is not domiciled in Louisiana. Dollar Tree is a foreign corporation, incorporated under the laws of Virginia and with its principal place of business for purposes of diversity jurisdiction in the State

of Virginia. More specifically, Dollar Tree's corporate headquarters is located in Chesapeake, Virginia. Accordingly, there is complete diversity between Plaintiff Stephanie Wheeler and Defendant Dollar Tree.

**Plaintiff's Petition for Damages Alleges Damages that Exceed
the Jurisdictional Amount of \$75,000.**

7.

Although Defendant concedes neither liability on Plaintiff's claims nor the propriety or breadth of the claims alleged, the damages sought by Plaintiff exceed the jurisdictional amount of \$75,000.00, exclusive of interests and costs. Plaintiff's Petition for Damages alleges that Dollar Tree is liable for damages, including "back pay; mental anguish; humiliation and embarrassment; loss of reputation; loss of enjoyment of life; foreseeable and unforeseeable damages; compensatory damages; punitive damages; prejudgment interest; attorney's fees and all costs of these proceedings." See Plaintiff's Petition at ¶ 19. Since complete diversity of citizenship exists and the amount in controversy exceeds \$75,000.00, this action is removable to federal court.

8.

Defendant has properly established that diversity jurisdiction exists based on the claims set forth in Plaintiff's Petition for Damages. This case is therefore removable, and this Court should exercise jurisdiction over this matter.

FEDERAL QUESTION

9.

Additionally, this Court has federal question jurisdiction over the action because Plaintiff has asserted a purported claim for alleged unpaid minimum wages and overtime under the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201, *et. seq.*

10.

This action is therefore one of which the United States District Court for the Western District of Louisiana has original federal question jurisdiction under 28 U.S.C. §1331 as well as 29 U.S.C. §201, *et seq.* Accordingly, this action may be removed to this Court by Defendant pursuant to 28 U.S.C. §§1441(a).

11.

In accordance with the requirements of 28 U.S.C. § 1446(d), upon filing this Notice, Defendant has, at the same time, provided written notice to Plaintiff, through his counsel, as well as to the Clerk of the 15th Judicial District Court, Parish of Lafayette, Louisiana, that this action has been removed to federal court by furnishing copies of this Notice and attachments thereto.

12.

Defendant reserves its right to raise all objections and defenses to which it may be entitled, waiving nothing.

13.

Defendant reserves the right to amend or supplement this Notice of Removal and to urge additional arguments in support of its entitlement to remove this suit.

WHEREFORE, Defendant prays that this cause of action proceed before this Honorable Court as an action properly removed from the 15th Judicial District Court for the Parish of

Lafayette, State of Louisiana, to the United States District Court for the Western District of Louisiana, Lafayette Division, because the requisites for federal question jurisdiction, diversity jurisdiction and removal are met.

Respectfully submitted,

/s/ Gregory Guidry

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Attorneys for Defendant Dollar Tree
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Removal has been served on all counsel of record via the Court's Electronic Filing System.

This 30th day of June, 2017.

/s/ Gregory Guidry
Gregory Guidry

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